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10/804,486	03/18/2004	Danny R. Gaydou	UV-275	7628
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ROPE & GRAY LLP PATENT DOCKETING 39/361 1211 AVENUE OF THE AMERICAS NEW YORK, NY 10036-8704			EXAMINER	
			STRONCZER, RYAN S	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/804,486	<b>Applicant(s)</b> GAYDOU ET AL.
	<b>Examiner</b> Ryan Stronczer	<b>Art Unit</b> 2425

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 March 2009.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-14,18-31,35-49 and 69-98 is/are pending in the application.  
 4a) Of the above claim(s) 80-83 and 95-98 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-14,18-31,35-49,69-79,84-94 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 16 March 2009 has been entered.

### ***Response to Arguments***

Applicant's arguments, see pg. 28-30, filed 16 March 2009, with respect to claims 75 and 90 have been fully considered and are persuasive. The rejection under 35 U.S.C. 112 of claims 75 and 90 has been withdrawn.

Applicant's arguments with respect to claims 1, 7, 8, 14, 18, 24, 25, 31, 35, 41, 42, and 48 have been considered but are moot in view of the new ground(s) of rejection.

With respect to claims 69 and 84, Applicant alleges that Fig. 11A of West does not disclose:

[displaying], on a single transport control bar, a first segment that indicates the length of time the first program has been recorded and a second segment, visually distinguishable from the first time segment, that indicates the length of time the second program has been recorded. (Remarks, pg. 37)

Examiner respectfully disagrees. Fig. 11A of West clearly discloses a surf buffer (1130) which “*includes a list of all of the surfed media content instances [MCI 1-4]*” [0109], MCI 1-4 being equivalent to the recited plurality of recorded segments, said

plurality of surfed media content instances being displayed consecutively on the same bar, surf buffer 1130. West teaches further teaches, "*[t]he boundaries of the tuned start and end time of each media content instance is preferably delineated by a line 1135. Other mechanisms for delineating the boundaries can include using differences in shading or color or by the use of text within or outside of the option block, among others*" [0109]. Examiner maintains that the surf buffer taught by West is cumulative with the recited single transport control bar and thus maintains the rejections of claims 69 and 84 set forth in the previous Office Action.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 2, 4-6, 18, 19, 21-23, 35, 36, and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaminski et al. (Pub. No.: US 2003/0121055) and further in view of Safadi et al. (Pub. No.: US 2001/0051037).**

As to claims 1 and 18, the rejection set forth in the previous Office Action is incorporated herein; however, Kaminski does not explicitly teach the amended limitation of "receiving an adjusted start time and an adjusted end time based on at least one change in a running time of the currently broadcasting program." In an analogous art, Safadi teaches a personal video recorded (PVR) which records a broadcast program as

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well as metadata indicating the start and end time of said program [0020]. Safadi further teaches that after the program has concluded, the PVR can receive updated metadata from an EPG data server concerning the length of the program and can modify the recording to delete any unwanted portions not related to the recorded program [0061]. Specifically, Safadi teaches:

...this recording flexibility is accomplished by continually updating, in near-real-time, the data produced by the electronic programming guide server. This data is then used by the set-top terminal/personal versatile recorder unit (200) to determine the appropriate start and end times for the desired programs... according to this alternative embodiment, the agent application may control the duration of the event after the event has been recorded. In particular, a short time after recording the event, the agent application may use the updated, near-real-time data produced by the electronic programming guide server to accurately establish the times when the event has started and ended. By accurately establishing these times, the portion of the event that has been recorded before the event has started and after the event has ended is then deleted from the recording. [0061]

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Kaminski with the teachings of Safadi as it would have been desirable to incorporate Safadi's method for automatically receiving updated metadata from the EPG server to ensure that the running time is accurate and that unwanted portions of the recording are deleted. As both Kaminski and Safadi teach analogous PVR devices, this would represent a combination of known elements in the art that would have yielded predictable results to one of ordinary skill in the art.

Fig. 3A of Kaminski teaches the user input interface (**380**) and display (TV **341**) recited in claim 35. The recited control circuitry is inherent in Kaminski and Safadi.

As to claims 2 and 19, Fig. 4 of Kaminski teaches progress bar **410** which is equivalent to the recited transport control bar.

As to claims 4 and 21, Fig. 4 teaches that the progress bar further contains accessible portion **430** and inaccessible portion **432** which is equivalent to the recited "at least one time segment [which] is represented by at least one region of the transport control bar."

As to claims 5 and 22, Fig. 4 teaches that accessible portion **430** and inaccessible portion **432** are shaded differently so as to be visually distinguishable.

As to claims 6 and 23, Kaminski teaches that the accessible portion **430** *"represents when the media content instance displayed was tuned to and buffered into the TSB [time shift buffer] 378"* [0077] which is equivalent to the recited "wherein the at least one time segment represents at least one portion of the currently broadcasting program that has been automatically recorded into buffer memory."

As to claims 35, 36, and 38-40, the rejections of claims 1, 2, and 4-6, respectively, are incorporated herein. Fig. 3A of Kaminski teaches the user input interface (**380**) and display (TV **341**) recited in claim 35. The recited control circuitry is inherent in the device of Fig. 3A.

As to claims 7, 24, and 41, though the exemplary embodiment of Fig. 4 assumes that *"the user turned the TV on and tuned into the media content instance two minutes ago, which occurred midway through the media content instance"* [0077], Kaminski teaches the device in the context of a PVR system. Examiner takes Official Notice that it is well within the scope of a PVR to record a program in response to a specific user command and that it would have been obvious to one of ordinary skill in the art at the time of the invention that the user interface taught by Fig. 4 of Kaminski could have

been used to indicate the recording status of a program that the user specifically requested to record.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 3, 20, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaminski in view of Safadi as applied to claims 1, 18, and 35 above, and further in view of Vallone et al. (US Pat. No.: 6,847,778).**

As to claims 3, 20, and 37, Fig. 4 of Kaminski teaches the recited transport control bar, but does not explicitly teach "displaying the start time on one end of the transport control bar and the end time on an opposite end of the transport control bar," as recited. Fig. 26 of Vallone teaches a PVR interface with an analogous transport control bar **2601** which displays a start and end time on opposite ends of the control bar. It would have been an obvious matter of design choice to one of ordinary skill in the art at the time of the invention to display the start and end times of the program shown in title portion **427** of Fig. 4 of Kaminski on either end of the transport control bar in the manner taught by Fig. 26 of Vallone.

**Claims 8-14, 25-31, 42-48, 69-74, 77-79, 84-89, and 92-94 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaminski et al. and further in view of West et al. (Pub. No.: US 2003/0110514).**

As to claims 8, 25, and 42, the rejection based on Kaminski set forth in the previous Office Action is incorporated herein. Though Fig. 4-12 of Kaminski teach displaying a program as well as a transport control bar with multiple time segments on a display, Kaminski does not explicitly teach simultaneously displaying segments corresponding to more than one program on the transport control bar, as is recited by the amended claims 8, 25, and 42. In an analogous art, Fig. 11 of West teaches a PVR interface including a surf buffer 1130 which displays a *"list of all of the surfed media content instances...from a plurality of display channels. The boundaries of the tuned start and end time of each media content instance is preferably delineated by a line 1135"* [0109]. As to the amended limitation wherein "the transport control interface is modified to display the first time segment and a second time segment associated with a recording to the subsequent broadcasting program," surf buffer 1130 displays a plurality of segments MCI 1-4, each segment corresponding to a particular broadcasting program, each viewed subsequently to the program before it in the buffer (i.e., the broadcasting program corresponding to MCI 3 was played subsequently to MCI 1 and 2). Delineating between the plurality of media content instances MCI 1-4 comprises the recited "determining that the playing of the currently broadcasting program is finished," as the buffer indicates when the user surfed to another channel, thus ending the playing of each program. It would have been obvious to one of ordinary skill in the art at the

time of the invention to incorporate the capability of the surf buffer to show multiple recorded programs on one progress bar taught by West into the status bar of Kaminski to allow users of Kaminski's system to have easier access to their recorded programs and better control over their PVR buffer.

As to claims 9, 26, and 43, Fig. 4-12 of Kaminski and 11-15 of West teach a progress bar or surf buffer which is equivalent to the recited transport control bar.

As to claims 11, 28, and 45, MCI 1-4 of surf buffer 1130 (Fig. 11A) taught by West are equivalent to the recited at least one time segment.

As to claims 12, 29, and 46, Fig. 4 teaches that accessible portion **430** and inaccessible portion **432** are shaded differently so as to be visually distinguishable.

As to claims 13, 30, and 47, Kaminski teaches that the accessible portion **430** “represents when the media content instance displayed was tuned to and buffered into the TSB [time shift buffer] **378**” [0077] which is equivalent to the recited “wherein the at least one time segment represents at least one portion of the currently broadcasting program that has been automatically recorded into buffer memory.”

As to claims 14, 31, and 48, though the exemplary embodiment of Fig. 4 assumes that “the user turned the TV on and tuned into the media content instance two minutes ago, which occurred midway through the media content instance” [0077], Kaminski teaches the device in the context of a PVR system. Examiner takes Official Notice that it is well within the scope of a PVR to record a program in response to a specific user command and that it would have been obvious to one of ordinary skill in the art at the time of the invention that the user interface taught by Fig. 4 of Kaminski

could have been used to indicate the recording status of a program that the user specifically requested to record.

As to claim 69, Fig. 4-12 of Kaminski teach displaying a program as well as a transport control bar with multiple time segments on a display; however, Kaminski does not explicitly teach simultaneously displaying segments corresponding to more than one program on the transport control bar, as is recited in claim 69. Fig. 11 of West teaches an analogous PVR interface including a surf buffer **1130** which "includes a list of all of the surfed media content instances...from a plurality of display channels. The boundaries of the tuned start and end time of each media content instance is preferably delineated by a line **1135**" [0109]. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the capability of the surf buffer to show multiple recorded programs on one progress bar taught by West into the status bar of Kaminski to allow users of Kaminski's system easier access to their recorded programs and better control over their PVR buffer.

As to claim 84, the rejection of claim 69 is incorporated herein. Fig. 3A of Kaminski teaches the recited memory buffer (TSB **378**) and display (TV **341**). The recited control circuitry is inherent in the device of Fig. 3A.

As to claims 70 and 85, Fig. 6-8 of Kaminski teach an arrow bar (638, 738, 837) which "*represents that there exists a buffered media content instance before the Drew Carey Show (i.e. Who Wants To Be a Millionaire) [Fig. 6]*" [0079]. Utilizing the "surf bar" capability taught by West to show a single status bar with all previously recorded programs from a single channel (e.g., Spin City, The Drew Carey Show, and Who

Wants to be a Millionaire) is an embodiment of the combined teachings of Kaminski and West that would have been obvious to one of ordinary skill in the art at the time of the invention.

As to claims 71 and 86, Examiner takes Official Notice that it is well known and widely practiced in the art for a PVR such as that taught by Kaminski and West to record programs from more than one channel either subsequently or concurrently using multiple tuners and that such functionality would have been obvious to one of ordinary skill in the art to employ at the time of the invention.

As to claims 72 and 87, the surf buffer taught by Fig. 11A-B of West identifies each segment of the surf buffer (e.g., MC1, MC2, etc.). Further, West teaches, "*highlighted option block 1130 includes a list of all of the surfed media content instances (for example, by media content instance title) from a plurality of display channels*" [0109]. It would have been obvious to one of ordinary skill in the art at the time of the invention that the channel of each media content instance could be displayed in its corresponding segment of surf bar 1130 instead of the title of program.

As to claims 73 and 88, West teaches that "*The boundaries of the tuned start and end time of each media content instance is preferably delineated by a line 1135. Other mechanisms for delineating the boundaries can include using differences in shading or color...*" [0109].

As to claims 74 and 89, each segment of the surf bar 1130 corresponding to MCI1-4 is a different length, corresponding to the length of the recorded MCI segment.

This is equivalent to the recited “visual properties of the first and second time segment [which] reflect characteristics respectively of the first and second program.”

As to claims 75 and 90, West teaches that each block of surf bar 1130 corresponding to a different media content instance can be distinguished using “*differences in shading or color*” [0109]. Since the media content instances MCI 1-4 of surf bar 1130 can comprise automatically buffered segments of programs viewed, West provides the equivalent functionality of the recited “wherein the visual properties of the first and second time segments respectively are based on whether the first and second programs were recorded automatically.”

As to claims 76 and 91, Fig. 4-10 of Kaminski teach an accessible content portion which is equivalent to the recited “wherein the visual properties of the first and second time segments, respectively, are based on whether the first and second programs are currently being recorded...” As analyzed above, the combination of Kaminski and West would have allowed for multiple segments to be displayed on a single status bar.

As to claims 77 and 92, West teaches, “[*If*] the user has selected to view the contents of the composite buffer file (i.e., the surfing buffer)...The user also can be presented with a navigating bar within each boundary area or near each boundary area that enables individual media content instance selections for display” [0110]. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the system of West to provide the user with an interface through which the user can highlight and/or use a navigating bar to select a specific media content instance from

within surf bar **1130** to be displayed. Doing so inherently would have resulted in the indicating which MCI was currently displayed, and thus, conversely, which MCI were not currently displayed, as recited in claims 77 and 92.

As to claims 78 and 93, West, as analyzed above, teaches that the user can be presented with an interface by which the user can select a specific MCI from within surf bar 1130 to be displayed. Updating the status bar to reflect which media content instance is currently being displayed is inherent in providing an interface that indicates which media content instance is currently being displayed and that allows the user to select a different content instance to be displayed.

As to claims 79 and 94, Fig. 4-12 of Kaminski teach that the title of the currently program is displayed underneath the progress bar.

**Claims 10, 27, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaminski et al. in view of West as applied to claims 8, 25, and 42 above, and further in view of Vallone et al. (US Pat. No.: 6,847,778).**

As to claims 10, 27, and 44, Fig. 4 of Kaminski teaches the recited transport control bar, but does not explicitly teach “displaying the start time on one end of the transport control bar and the end time on an opposite end of the transport control bar,” as recited. Fig. 26 of Vallone teaches a PVR interface with an analogous transport control bar **2601** which displays a start and end time on opposite ends of the control bar. It would have been an obvious matter of design choice to one of ordinary skill in the art at the time of the invention to display the start and end times of the program

shown in title portion **427** of Fig. 4 of Kaminski on either end of the transport control bar in the manner taught by Fig. 26 of Vallone.

### Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Stronczer whose telephone number is (571) 270-3756. The examiner can normally be reached on 7:30 AM - 5:00 PM (EDT), Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian T. Pendleton can be reached on (571) 272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Ryan Stronczer/  
Examiner, Art Unit 2425

/Brian T. Pendleton/  
Supervisory Patent Examiner, Art Unit 2425